

APPEAL NO. 021730
FILED AUGUST 21, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 23, 2002. The hearing officer resolved the disputed issues by determining that the respondent (claimant) did not sustain a compensable occupational disease injury or have disability; that the date of the claimed injury was _____; that the claimant timely notified the employer of the injury; that the claimant timely filed a claim for compensation with the Texas Workers' Compensation Commission (Commission); and that the appellant (carrier) is liable for the payment of accrued benefits under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 124.3 (Rule 124.3) for the period resulting from its failure to dispute the claim or initiate the payment of benefits within seven days of receiving notice of the claimed injury. The carrier contends on appeal that the date-of-injury determination, as well as its resulting effects on the determinations relating to timely notice, timely filing of a claim for compensation, and carrier liability for failing to timely dispute the claim, is against the great weight and preponderance of the evidence. The appeal file contains no response from the claimant.

DECISION

We affirm the hearing officer's decision.

The hearing officer's Decision and Order contains a comprehensive summary of the evidence. The appealed issues in this case involved factual questions for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The hearing officer's determinations that the date of the claimed injury was _____, that she reported the injury to her employer three days later, and that she timely filed her claim, are sufficiently supported by the evidence. The hearing officer could believe that the claimant felt she had an ordinary disease of life until she saw Dr. G on _____.

Pursuant to Rule 124.3, the carrier was required to dispute the claimed injury within seven days of receiving written notice of the injury. The evidence reflects that the carrier received notice of the injury on October 1, 2001, yet failed to file its dispute with the Commission until October 9, 2001. Given that the hearing officer determined that the claimant has an injury involving her upper extremities, albeit an injury determined not to be caused by her employment, we perceive no error in the hearing officer's conclusion that the carrier is liable for the payment of accrued benefits under Rule 124.3 for the period resulting from its failure to dispute the claim or initiate the payment of benefits within seven days of receiving notice of the claimed injury. Nothing in our review of the record indicates that the hearing officer's decision is so against the great

weight and preponderance of the evidence as to be clearly wrong or manifestly unjust.
Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **COMBINED SPECIALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICES COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge